

FILED
MAR 13 2017
Clerk, U.S. Courts
District Of Montana
Missoula Division

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

JOHN HARTSOE,

Plaintiff,

vs.

STATE OF MONTANA, et al.,

Defendants.

CV 16-87-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Findings and Recommendation on January 6, 2017, recommending granting Defendants' Motions to Dismiss Defendants State District Judges James Manley and Loren Tucker, as well as Montana Supreme Court Chief Justice Mike McGrath. Plaintiff John Hartsoe ("Hartsoe") failed to timely object to the Findings and Recommendation, and so waived his right to de novo review of the record. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Having reviewed the Findings and Recommendation, the Court finds no clear error in Judge Lynch's conclusion that Justice Mike McGrath and Judges James Manley and Loren Tucker should be dismissed from this suit. The Court agrees that Hartsoe's claims against Justice McGrath and Judge Manley must be dismissed due to their judicial immunity from suit. Further, the Court finds no error in Judge Lynch's recommendation to dismiss Judge Tucker from this litigation due to the doctrine of res judicata. *See Hartsoe v. Doyle, et al.*, CV 14-63-H-DLC-JTJ, 2015 WL 2095657 (D. Mont. May 5, 2015), appeal dismissed (Aug. 28, 2015) (Court dismissed Judge Tucker due his judicial immunity).


Accordingly, there being no clear error in Judge Lynch's Findings and Recommendation, IT IS ORDERED that:

(1) Judge Lynch's Findings and Recommendation (Doc. 56) are ADOPTED IN FULL.

(2) Defendants Manley, McGrath, and Tucker's Fed. R. Civ. P. 12(b)(6) motions to dismiss (Docs. 36, 38, 40) are GRANTED; and

(3) Plaintiff Hartsoe's claims against Defendants Manley, McGrath, and Tucker are DISMISSED

Dated this 13th day of March, 2017.


Dana L. Christensen, Chief Judge
United States District Court